

§ 266.2

32 CFR Ch. I (7–1–04 Edition)

(b) Implements Public Law 98-502 (31 U.S.C. 7501-7507 and 3512) and Office of Management and Budget (OMB) Circulars A-128¹ and A-133² to establish audit requirements for State and local governments, institutions of higher education, and other nonprofit institutions that receive Federal financial assistance.

(c) Assigns responsibilities within the Department of Defense for monitoring compliance with those requirements.

§ 266.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Inspector General of the Department of Defense (IG, DoD), the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as “the DoD Components”) that provide Federal financial assistance to State and local governments, institutions of higher education, and other nonprofit institutions.

§ 266.3 Definitions.

Terms used in this part are defined in OMB Circulars A-128 and A-133 with the following deviation. Funds paid by the National Guard Bureau to States under facilities’ operation and maintenance agreements do not constitute “Federal financial assistance” for purposes of Public Law 98-502 and OMB Circular A-128.

§ 266.4 Policy.

The DoD Components shall rely on and use financial and performance audits performed by non-Federal auditors under OMB Circular A-128 and independent auditors under OMB Circular A-133 in the oversight of Federal financial assistance provided to State and local governments, institutions of higher education, and other nonprofit institutions. Public Law 98-502 provides that a non-Federal audit of the operations of a State or local govern-

ment performed under OMB Circular A-128 may exclude public colleges and universities, in which case an audit of the public college or university shall be made in accordance with OMB Circular A-133. The DoD Components, however, may request additional audits of such assistance when required by regulation or to ensure effective use of such assistance as deemed necessary. Any additional audit effort shall be planned and carried out in such a way as to avoid duplication and shall be separately funded.

§ 266.5 Responsibilities.

(a) The Inspector General of the Department of Defense shall:

(1) Serve as the DoD senior official under OMB Circulars A-128 and A-133 for policy guidance, direction, and coordination with DoD Components and other Federal Agencies on audit matters related to State and local governments, institutions of higher education and other nonprofit institutions.

(2) For State and local governments, institutions of higher education, and other nonprofit institutions for which the OMB has assigned the DoD cognizance, do the following:

(i) Ensure that audits are made and reports are received in a timely manner and in accordance with the requirements of OMB Circulars A-128 and A-133.

(ii) Provide technical advice and liaison through the DoD Components to State and local governments, institutions of higher education, other nonprofit institutions, and independent auditors.

(iii) Make desk reviews of all reports received, and also make quality control reviews of selected audits made by non-Federal audit organizations and provide the results, when appropriate, to other interested organizations.

(iv) Promptly inform other affected Federal Agencies and appropriate law enforcement officials of any reported illegal acts or irregularities in accordance with requirements of OMB Circulars A-128 and A-133.

(v) Advise the recipient of audits that have been found not to have met the requirements in OMB Circulars A-128 and A-133. In such instances, the recipient will work with the auditor to

¹Forward written requests to: Office of Management and Budget Publications, 725 17th Street, NW, New Executive Office Building, Washington, DC 20503.

²See footnote 1 to § 266.1(b).

take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient and Federal awarding agencies of the facts and make recommendations for followup action. Major inadequacies or repetitive sub-standard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(vi) Coordinate, to the extent practicable, audits requested by other Federal Agencies, in addition to those required by OMB Circulars A-128 and A-133.

(vii) Ensure the resolution of audit findings and recommendations that affect DoD programs and those findings affecting programs of more than one Federal Agency. Ensure that a management decision affecting audit resolution shall be made within 6 months after receipt of the audit report.

(3) For local governments, institutions of higher education, and other nonprofit institutions for which the Department of Defense has assumed oversight responsibility, do the following:

(i) Provide technical advice and counsel through DoD Components to institutions and independent auditors when requested.

(ii) Assume all or some of the cognizant agency responsibilities (see paragraph (a)(2) of this section), as deemed necessary.

(4) For other State and local governments, institutions of higher education, and other nonprofit institutions, receive and distribute copies of single audit reports to appropriate DoD Components for appropriate action and followup by designated program officials.

(5) For audit reports that contain conditions affecting DoD programs, institute followup efforts to ensure that corrective actions have been taken by DoD organizations responsible for managing associated programs or funds.

(b) The Heads of the DoD Components shall:

(1) Designate an official to coordinate with the IG, DoD, on matters dealing with audits of financial assistance provided by the DoD Component to State and local governments, insti-

tutions of higher education, and other nonprofit institutions.

(2) Ensure input of accurate award data for Federal financial assistance to the appropriate DoD management information system.

(3) Ensure that the State or local government, institution of higher education, or other nonprofit institution takes appropriate actions to correct audit deficiencies involving financial assistance provided by the DoD Component.

(4) For State and local governments, institutions of higher education, and other nonprofit institutions for which the OMB has assigned DoD cognizance, do the following:

(i) Coordinate with the IG, DoD, on requests from other Federal Agencies for audits of State and local governments, institutions of higher education, and other nonprofit institutions, in addition to those required by OMB Circulars A-128 and A-133.

(ii) Seek the views of other interested agencies when a coordinated audit approach is to be used and before completing a coordinated program.

(iii) Help coordinate the audit work and reporting responsibilities among independent public accountants, State auditors, and both resident and non-resident Federal auditors to achieve the most cost-effective audit.

§ 266.6 Procedures.

The costs of audits made by non-Federal auditors under OMB Circulars A-128 and A-133 are allowable charges to Federal financial assistance programs. The charges may be considered as a direct cost or an allocated indirect cost in accordance with OMB Circulars A-87, A-122 and A-21³; FAR, part 31 (48 CFR part 31); or the DFARS, part 231 (48 CFR part 231). Generally, the percentage of costs charged to Federal assistance programs for an audit shall not exceed the percentage of Federal funds expended to the total funds expended by the recipient during the fiscal year. No cost, however, may be charged to Federal programs for audits

³See footnote 1 to § 266.1(b).